In the High Court of Judicature at Madras

Dated: 04.07.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice V.DHANAPALAN

Habeas Corpus Petition No.409 of 2006

Kumar @ Krishna Kumar ..Petitioner

..vs..

1. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. The District Magistrate and
   District Collector,
   Nagapattinam District,
   Nagapattinam. ..Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the second respondent in C.O.C.No.5/2006 dated 02.03.2006 and quash the same and consequently, direct the respondents to produce the detenu Kumar @ Krishnakumar, son of Pitchai @ Anantha Krishnan, who now confined in Central Prison, Tiruchirapalli, before this Court and set him at liberty.

For Petitioner : Mr.G.Anbuchezhian
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor

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ORDER

(Order of the Court was made by V.DHANAPALAN, J.,)

The petitioner, by name Kumar @ Krishna Kumar, who was detained as "Goonda" under sub-section (1) of section 3 of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,

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Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) by the impugned proceedings dated 02.03.2006, challenges the same in this habeas corpus petition.

2. Heard the learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. Learned counsel appearing for the petitioner, at the foremost, has submitted that there was inordinate delay in disposal of the representation of the detenu, which vitiates the ultimate detention order passed by the second respondent.

4. The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 04.04.2006; remarks were called for on 05.04.2006; remarks were received on 13.04.2006; the file was submitted on 17.04.2006 and thereafter, the same was dealt with by the Under Secretary and Deputy Secretary on 18.04.2006. The Minister for Prohibition and Excise passed an order on 19.04.2006, rejecting the representation. However, the rejection letter was prepared by the officials on 10.05.2006. The same was sent to the detenu on 12.05.2006 and served to the detenu on 16.05.2006. Though the concerned authority, namely, Minister for Prohibition and Excise had passed the order, rejecting the representation of the petitioner even as early as on 19.04.2006, there is no explanation for taking time till 10.05.2006 for preparation of the rejection letter. In the absence of explanation by the person / persons concerned, we hold that the delay is on the higher side, which vitiates the ultimate order of detention and on this ground, the detention order is liable to be quashed.

5. Accordingly, the impugned order of detention is quashed and the habeas corpus petition is allowed. The detenu is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George,
   Chennai-9.

2. The District Magistrate
   and District Collector,
   Nagapattinam District,
   Nagapattinam.

3. The Superintendent,
   Central Prison,
   Tiruchirapalli.
   (in duplicate for communication
   to detenu)

4. The Joint Secretary to Govt.,
   Public (Law & Order),
   Fort St.George,
   Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

H.C.P.No.409 of 2006

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